



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2014 REGULAR SESSION

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HOUSE BILL NO. 343

AS ENACTED

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MONDAY, MARCH 31, 2014

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RECEIVED AND FILED  
DATE April 10, 2014  
1:43pm

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ALISON FUNDERBACH GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY K. Adler

1 AN ACT relating to the criminal justice system.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 431.215 is amended to read as follows:

4 (1) If the judgment imposes a sentence of death or confinement in the penitentiary,  
5 county jail or other institution, two (2) certified copies thereof shall be furnished  
6 forthwith to the sheriff who shall execute the same by delivering the defendant and  
7 a certified copy of the judgment to the person in charge of the penitentiary, jail or  
8 institution of confinement and making a written return thereof in the office of the  
9 circuit clerk within ten (10) days after the execution.

10 (2) When the judgment imposes a sentence of death or confinement in the penitentiary,  
11 the county in which the prisoner is incarcerated shall receive from the State  
12 Treasury a fee per day beginning on the ~~the fifth day following the~~ day on which  
13 judgment was rendered and ending the day that the defendant is delivered to the  
14 penitentiary. The fee shall be paid to the county treasurer for use for the  
15 incarceration of prisoners as provided in KRS 441.025.

16 ➔Section 2. KRS 441.045 is amended to read as follows:

17 (1) The county governing body shall prescribe rules for the government, security,  
18 safety, and cleanliness of the jail and the comfort and treatment of prisoners,  
19 provided such rules are consistent with state law. The county judge/executive may  
20 inspect the jail at any reasonable time.

21 (2) Willful violation of the rules promulgated pursuant to subsection (1) of this section  
22 shall be deemed a violation.

23 (3) Except as provided in subsections (4) and (5) of this section, the cost of providing  
24 necessary medical, dental, and psychological care for indigent prisoners in the jail  
25 shall be paid from the jail budget.

26 (4) The cost of providing necessary medical, dental, or psychological care for prisoners  
27 of the United States government shall be paid as provided by contract between the

1 United States government and the county or as may otherwise be provided by  
2 federal law.

3 (5) (a) The cost of providing necessary medical, dental, or psychological care,  
4 beyond routine care and diagnostic services, for prisoners held pursuant to a  
5 contractual agreement with the state shall be paid as provided by contract  
6 between the state and county. The costs of necessary medical, dental, or  
7 psychological care, beyond routine care and diagnostic services, of prisoners  
8 held in the jail for which the county receives a per diem payment shall be paid  
9 by the state.

10 (b) To the extent that federal law allows and federal financial participation is  
11 available, for the limited purpose of implementing this section, the jail, the  
12 department, or the department's designee is authorized to act on behalf of an  
13 inmate for purposes of applying for Medicaid eligibility.

14 (6) The cost of providing necessary medical, dental, or psychological care for prisoners  
15 held pursuant to a contractual agreement with another county or a city shall be paid  
16 as provided by contract between the county or city and county.

17 (7) (a) When the cost of necessary medical, dental, or psychological care for a  
18 prisoner exceeds one thousand dollars (\$1,000), as calculated by using the  
19 maximum allowable costs to similar persons or facilities for the same or  
20 similar services under the Kentucky Medical Assistance Program, the state  
21 shall reimburse the county for that portion of the costs that exceeds one  
22 thousand dollars (\$1,000). The reimbursement shall be subject to the  
23 following terms and conditions:

- 24 1. The care is necessary as defined in subsection (10) of this section;
- 25 2. The prisoner is indigent as defined in subsection (8) of this section, or is  
26 uninsured; and
- 27 3. No state reimbursement to the county for care provided by physicians,

1 hospitals, laboratories, or other health care providers shall exceed the  
2 maximum payments allowed to similar persons or facilities for the same  
3 or similar services under the Kentucky Medical Assistance Program,  
4 except as provided in subsection (11) of this section.

5 (b) A county may assign its ability to receive payment from the state under this  
6 subsection to the person providing the medical, dental, or psychological care  
7 to the prisoner, which assignment shall be accepted by the provider for the  
8 purposes of submitting billing directly to the state. The state shall pay or deny  
9 a claim submitted to it within ninety (90) days of receiving the claim. The  
10 county shall include with the assignment the information required by  
11 subsection (8) of this section necessary to qualify the prisoner as indigent. The  
12 provider shall bill for any other public or private health benefit plan or health  
13 insurance benefits available to the prisoner prior to billing the state under this  
14 subsection, and shall bill the state prior to billing the county. The county shall  
15 retain ultimate payment responsibility as established under subsection (3) of  
16 this section, and the provider may bill the county for payment after the  
17 expiration of ninety (90) days from the date the provider submitted the claim  
18 to the state for payment if the claim remains unpaid at that time.

19 (8) (a) The determination of whether a prisoner is indigent shall be made pursuant to  
20 KRS 31.120, and may be evidenced by the affidavit of indigency required by  
21 that statute or the appointment of a public defender under that statute. The  
22 prisoner shall not be considered indigent, in the case of prisoner medical care,  
23 if:

- 24 1. The prisoner has funds on his inmate account to cover all or a portion of  
25 his medical expenses;
- 26 2. The prisoner's medical expenses are covered on a medical insurance  
27 policy; or

1           3.    The prisoner has the private resources to pay for the use of the medical  
2                    facilities.

3           (b)   Prisoners who are later determined not to have been indigent, or who at a time  
4                   following treatment are no longer indigent, shall be required to repay the costs  
5                   of payments made pursuant to this section to the unit of government which  
6                   made the payment.

7    (9)   The terms and conditions relating to any determination of nonindigency and  
8           demands for repayment shall be under the same terms and conditions as are  
9           provided under KRS Chapters 31 and 431 relating to similar circumstances in the  
10          program for defense of indigents by the public advocate.

11   (10)   For the purposes of this section, "necessary care" means care of a nonelective nature  
12           that cannot be postponed until after the period of confinement without hazard to the  
13           life or health of the prisoner.

14   (11)   Any money appropriated for a given fiscal year to fund the state's obligation under  
15           subsection (7) of this section which remains unspent at the end of the year shall not  
16           lapse but shall be made available to satisfy, to the maximum extent possible, that  
17           portion of each catastrophic claim made during said year above the threshold  
18           amount for which the county did not receive state assistance pursuant to subsection  
19           (7) of this section. In the event there is an insufficient surplus to satisfy said balance  
20           of all such catastrophic claims which are made during that year, the state shall pay  
21           to those qualified counties, on a per claim basis, an amount equal to each claim's  
22           percentage of the total surplus. Should the surplus be sufficient to satisfy all such  
23           catastrophic claims, the amount remaining, if any, shall not lapse but shall be  
24           carried forward to the next fiscal year to be made available for future catastrophic  
25           claims.

26   (12)   Notwithstanding other provisions of this section to the contrary, a jail may impose a  
27           reasonable fee for the use of jail medical facilities by a prisoner who has the ability

1 to pay for the medical care. These funds may be deducted from the prisoner's inmate  
 2 account. A prisoner shall not be denied medical treatment because he has  
 3 insufficient funds on his inmate account. This subsection shall not preclude other  
 4 recovery of funds as provided in this section.

5 (13) (a) Notwithstanding any other provision of this section to the contrary, a jail may  
 6 impose a reasonable fee for the use of jail medical facilities by a state prisoner  
 7 who has been placed in a local jail pursuant to a contract with the Department  
 8 of Corrections under KRS 532.100 or other statute, and who has the ability to  
 9 pay for medical care.

10 (b) Funds may be deducted from the state prisoner's inmate account at the jail.

11 (c) A state prisoner shall not be denied medical treatment because he or she has  
 12 insufficient funds in his or her inmate account.

13 (d) This subsection shall not preclude other recovery of funds as provided in this  
 14 section.

15 (e) This subsection does not authorize recovery of funds from a prisoner for  
 16 medical care which has been paid or reimbursed by the state pursuant to this  
 17 section.

18 (14) Except as provided in subsection (4)~~[(5), or (8)]~~ of this section, all payments for  
 19 necessary medical, dental, or psychological care for jail, regional jail, or holdover  
 20 prisoners shall be made at a rate not to exceed the Medicaid rate for the same or  
 21 similar services, which shall be paid within thirty (30) days under the provisions of  
 22 KRS 65.140 of receiving a claim from the health facility or provider for the item or  
 23 service. This subsection shall not obligate the Medicaid program to pay for services  
 24 provided to a prisoner.

25 (15) (a) A peace officer or correctional officer having custody of a person shall not  
 26 release the person from custody so that the person may receive treatment from  
 27 a health care facility or health care provider, except pursuant to an order

1 issued by a court of competent jurisdiction which specifically names the  
2 person to receive treatment.

3 (b) A peace officer or correctional officer having custody of a person may take the  
4 person to a health care facility or health care provider for the purpose of  
5 receiving treatment if a correctional officer remains with the person during the  
6 time the person is on the premises of the health care facility or health care  
7 provider, unless the facility or provider consents to the absence of the officer.

8 (c) A county, urban-county, consolidated local government, charter county,  
9 unified local government, jail, regional jail, holdover, local detention center,  
10 or other local correctional facility shall not be responsible for paying for the  
11 medical or other health care costs of a person who is released by a court of  
12 competent jurisdiction, except where the release is for the purpose of  
13 receiving medical or other health care services as evidenced by an order  
14 requiring the person to return to custody upon completion of treatment.

15 (d) When a county, urban-county, consolidated local government, charter county,  
16 unified local government, jail, regional jail, holdover, local detention center,  
17 or other local correctional facility is responsible for paying for medical or  
18 other health care costs under paragraph (c) of this subsection, payment shall  
19 be made only at the Medicaid rate for same or similar services.

20 (e) For the purposes of this subsection, "correctional officer" includes a:

- 21 1. Jailer or deputy jailer;
- 22 2. Director or other person in charge of a local detention center, local  
23 correctional facility, or regional jail; and
- 24 3. Correctional officer employed by a local detention center, local  
25 correctional facility, or regional jail.

26 ➔ Section 3. KRS 520.010 is amended to read as follows:

27 The following definitions apply in this chapter, unless the context otherwise requires:

- 1 (1) "Contraband" means any article or thing which a person confined in a detention  
2 facility is prohibited from obtaining or possessing by statute, departmental  
3 regulation, or posted institutional rule or order;
- 4 (2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention,  
5 or an order of court for law enforcement purposes, but does not include supervision  
6 of probation or parole or constraint incidental to release on bail;
- 7 (3) "Dangerous contraband" means contraband which is capable of use to endanger the  
8 safety or security of a detention facility or persons therein, including, but not limited  
9 to, dangerous instruments as defined in KRS 500.080, any controlled substances,  
10 any quantity of an alcoholic beverage, and any quantity of marijuana, cell phones,  
11 and saws, files, and similar metal cutting instruments;
- 12 (4) "Detention facility" means any building and its premises used for the confinement  
13 of a person:
- 14 (a) Charged with or convicted of an offense;
- 15 (b) Alleged or found to be delinquent;
- 16 (c) Held for extradition or as a material witness; or
- 17 (d) Otherwise confined pursuant to an order of court for law enforcement  
18 purposes;
- 19 (5) "Escape" means departure from custody or the detention facility in which a person  
20 is held or detained when the departure is unpermitted, or failure to return to custody  
21 or detention following a temporary leave granted for a specific purpose or for a  
22 limited period; and
- 23 (6) As used in this section and KRS 520.015, "penitentiary" includes any facility  
24 operated by the Department of Corrections and the confines of any work detail or  
25 other detail, whether under guard or not, under the custody and control of the  
26 Department of Corrections.
- 27 ➔Section 4. KRS 17.500 is amended to read as follows:



1 As used in KRS 17.500 to 17.580:

2 (1) "Approved provider" means a mental health professional licensed or certified in  
3 Kentucky whose scope of practice includes providing mental health treatment  
4 services and who is approved by the Sex Offender Risk Assessment Advisory  
5 Board, under administrative regulations promulgated by the board, to provide  
6 comprehensive sex offender presentence evaluations or treatment to adults and  
7 youthful offenders, as defined in KRS 600.020;

8 (2) "Cabinet" means the Justice and Public Safety Cabinet;

9 (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense  
10 against a victim who is a minor" means any of the following offenses if the  
11 victim is under the age of eighteen (18) at the time of the commission of the  
12 offense:

- 13 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
- 14 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a  
15 parent;
- 16 3. Sex crime;
- 17 4. Promoting a sexual performance of a minor, as set forth in KRS  
18 531.320;
- 19 5. Human trafficking involving commercial sexual activity, as set forth in  
20 KRS 529.100;
- 21 6. Promoting prostitution, as set forth in KRS 529.040, when the defendant  
22 advances or profits from the prostitution of a person under the age of  
23 eighteen (18);
- 24 7. Use of a minor in a sexual performance, as set forth in KRS 531.310;
- 25 8. Sexual abuse, as set forth in KRS 510.120 and 510.130;
- 26 9. Unlawful transaction with a minor in the first degree, as set forth in KRS  
27 530.064(1)(a);

- 1           10. Any offense involving a minor or depictions of a minor, as set forth in  
2           KRS Chapter 531;
- 3           11. Any attempt to commit any of the offenses described in subparagraphs 1.  
4           to 10. of this paragraph; and
- 5           12. Solicitation to commit any of the offenses described in subparagraphs 1.  
6           to 10. of this paragraph.
- 7       (b) Conduct which is criminal only because of the age of the victim shall not be  
8           considered a criminal offense against a victim who is a minor if the  
9           perpetrator was under the age of eighteen (18) at the time of the commission  
10          of the offense;
- 11   (4) "Law enforcement agency" means any lawfully organized investigative agency,  
12          sheriff's office, police unit, or police force of federal, state, county, urban-county  
13          government, charter county, city, consolidated local government, or a combination  
14          of these, responsible for the detection of crime and the enforcement of the general  
15          criminal federal or state laws;
- 16   (5) "Registrant" means:
- 17       (a) Any person eighteen (18) years of age or older at the time of the offense or  
18           any youthful offender, as defined in KRS 600.020, who has committed:
- 19           1. A sex crime; or
- 20           2. A criminal offense against a victim who is a minor; or
- 21       (b) Any person required to register under KRS 17.510; or
- 22       (c) Any sexually violent predator; or
- 23       (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250,  
24           until the diversionary period is successfully completed;
- 25   (6) "Registrant information" means the name, including any lawful name change  
26          together with the previous name, Social Security number, age, race, sex, date of  
27          birth, height, weight, hair and eye color, fingerprints, DNA sample, a photograph,

1 aliases used, residence, electronic mail address and any instant messaging, chat, or  
 2 other Internet communication name identities, a brief description of the crime or  
 3 crimes committed, and other information the cabinet determines, by administrative  
 4 regulation, may be useful in the identification of registrants;

5 (7) "Residence" means any place where a person sleeps. For the purposes of this statute,  
 6 a registrant may have more than one (1) residence. A registrant is required to  
 7 register each residence address;

8 (8) "Sex crime" means:

9 (a) A felony offense defined in KRS Chapter 510, or KRS 530.020,  
 10 530.064(1)(a), 531.310,~~531.320~~, or 531.335;

11 (b) A felony attempt to commit a felony offense specified in paragraph (a) of this  
 12 subsection; or

13 (c) A federal felony offense, a felony offense subject to a court-martial of the  
 14 United States Armed Forces, or a felony offense from another state or a  
 15 territory where the felony offense is similar to a felony offense specified in  
 16 paragraph (a) of this subsection;

17 (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an  
 18 Alford plea to a sex crime as defined in this section, as of the date the verdict is  
 19 entered by the court;

20 (10) "Sexually violent predator" means any person who has been subjected to  
 21 involuntary civil commitment as a sexually violent predator, or a similar  
 22 designation, under a state, territory, or federal statutory scheme;

23 (11) "The board" means the Sex Offender Risk Assessment Advisory Board created  
 24 under KRS 17.554;

25 (12) "Victim" has the same meaning as in KRS 421.500;

26 (13) "DNA sample" or "deoxyribonucleic acid sample" means a blood or swab specimen  
 27 from a person, as prescribed by administrative regulation, that is required to provide

1 a DNA sample pursuant to KRS 17.170 or 17.510, that shall be submitted to the  
 2 Department of Kentucky State Police forensic laboratory for law enforcement  
 3 identification purposes and inclusion in law enforcement identification databases;  
 4 and

5 (14) "Authorized personnel" means an agent of state government who is properly trained  
 6 in DNA sample collection pursuant to administrative regulation.

7 ➔Section 5. KRS 197.045 is amended to read as follows:

8 (1) Any person convicted and sentenced to a state penal institution:

9 (a) Shall receive a credit on his or her sentence for:

- 10 1. Prior confinement as specified in KRS 532.120;
- 11 2. Successfully receiving a general equivalency diploma or a high school  
 12 diploma, a two (2) or four (4) year college degree, a two (2) year or four  
 13 (4) year degree in applied sciences, a completed technical education  
 14 program, or an online or correspondence education program, each as  
 15 provided and defined by the department, or a civics education program  
 16 that requires passing a final exam, in the amount of ninety (90) days per  
 17 diploma, degree, or technical education program completed; and
- 18 3. Successfully completing a drug treatment program or other evidence-  
 19 based program approved by the department, in the amount of not more  
 20 than ninety (90) days for each program completed; and

21 (b) May receive a credit on his or her sentence for:

- 22 1. Good behavior in an amount not exceeding ten (10) days for each month  
 23 served, to be determined by the department from the conduct of the  
 24 prisoner;
- 25 2. Performing exceptionally meritorious service or performing duties of  
 26 outstanding importance in connection with institutional operations and  
 27 programs, awarded at the discretion of the commissioner in an amount

- 1 not to exceed seven (7) days per month; and
- 2 3. Acts of exceptional service during times of emergency, awarded at the
- 3 discretion of the commissioner in an amount not to exceed seven (7)
- 4 days per month.
- 5 (2) Except for a sentencing credit awarded for prior confinement, the department may
- 6 forfeit any sentencing credit awarded under subsection (1) of this section previously
- 7 earned by the prisoner or deny the prisoner the right to earn future sentencing credit
- 8 in any amount if during the term of imprisonment, a prisoner commits any offense
- 9 or violates the rules of the institution.
- 10 (3) When two (2) or more consecutive sentences are to be served, the several sentences
- 11 shall be merged and served in the aggregate for the purposes of the sentencing credit
- 12 computation or in computing dates of expiration of sentence.
- 13 (4) Until successful completion of the sex offender treatment program, an eligible
- 14 sexual offender may earn sentencing credit. However, the sentencing credit shall not
- 15 be credited to the eligible sexual offender's sentence. Upon the successful
- 16 completion of the sex offender treatment program, as determined by the program
- 17 director, the offender shall be eligible for all sentencing credit earned but not
- 18 otherwise forfeited under administrative regulations promulgated by the Department
- 19 of Corrections. After successful completion of the sex offender treatment program,
- 20 an eligible sexual offender may continue to earn sentencing credit in the manner
- 21 provided by administrative regulations promulgated by the Department of
- 22 Corrections. Any eligible sexual offender, as defined in KRS 197.410, who has not
- 23 successfully completed the sex offender treatment program as determined by the
- 24 program director shall not be entitled to the benefit of any credit on his or her
- 25 sentence. A sexual offender who does not complete the sex offender treatment
- 26 program for any reason shall serve his or her entire sentence without benefit of
- 27 sentencing credit, parole, or other form of early release. The provisions of this

1 section shall not apply to any sexual offender convicted before July 15, 1998, or to  
 2 any sexual offender with an intellectual disability.

3 (5) (a) The Department of Corrections shall, by administrative regulation, specify the  
 4 length of forfeiture of sentencing credit and the ability to earn sentencing  
 5 credit in the future for those inmates who have civil actions dismissed because  
 6 the court found the action to be malicious, harassing, or factually frivolous.

7 (b) Penalties set by administrative regulation pursuant to this subsection shall be  
 8 as uniform as practicable throughout all institutions operated by, under  
 9 contract to, or under the control of the department and shall specify a specific  
 10 number of days or months of sentencing credit forfeited as well as any  
 11 prohibition imposed on the future earning of sentencing credit.

12 (6) The provisions in subsection (1)(a)2. of this section shall apply retroactively to July  
 13 15, 2011.

14 ➔Section 6. KRS 439.563 is amended to read as follows:

15 (1) When there is an identified victim of a defendant's crime to whom restitution has  
 16 been ordered but not yet paid in full, or restitution has been ordered paid to a  
 17 government agency and has not yet been paid in full, the Parole Board shall order  
 18 the defendant to pay restitution as a condition of parole.

19 (2) When the Parole Board orders restitution, the board shall:

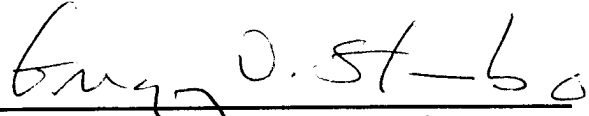
20 (a) Order the restitution to be paid to a specific person or organization through the  
 21 Division of Probation and Parole, which shall disburse the moneys as ordered  
 22 by the board;

23 (b) Set the amount of restitution to be paid, if not already set;

24 (c) Set the amount and frequency of each restitution payment or require the  
 25 payment to be made in a lump sum.

26 (3) When the Parole Board orders restitution, the Department of Probation and Parole  
 27 shall:

- 1 (a) Monitor and oversee the collection of the restitution;
  - 2 (b) Institute parole violation proceedings if the restitution is not being paid;
  - 3 (c) Institute sanctions against the defendant if restitution is not being paid and  
4 good cause is not shown for the nonpayment; and
  - 5 (d) Maintain parole supervision over the defendant until restitution has been paid  
6 in full.
- 7 (4) The board, in addition to any other sanctions which may be imposed on the  
8 defendant, may ask a court to hold a defendant who is not paying restitution in the  
9 manner or amount prescribed in contempt of court.
- 10 (5) Any statute relating to the length of parole supervision notwithstanding, the parole  
11 for a person owing restitution shall be until the restitution is paid in full, even if this  
12 would lengthen the period of supervision beyond the statutory limit of parole  
13 supervision or the statutory limit for serving out the sentence imposed.
- 14 (6) Payment of restitution in full prior to the end of the period of parole supervision  
15 shall not shorten the period of parole supervision.

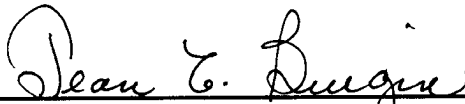


Speaker-House of Representatives



President of Senate

Attest:



Chief Clerk of House of Representatives

Approved



Governor

Date

